

ESTTA Tracking number: **ESTTA245660**

Filing date: **10/29/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|------------------------|--|
| Proceeding | 92047977 |
| Party | Plaintiff 3M Company |
| Correspondence Address | Chet Garner Fulbright & Jaworski, LLP 600 Congress Avenue, Suite 2400 Austin, TX 78701 UNITED STATES mmetteauer@fulbright.com, cgarner@fulbright.com, khaskins@fulbright.com, aotrademark@fulbright.com |
| Submission | Other Motions/Papers |
| Filer's Name | Michael S. Metteauer |
| Filer's e-mail | cgarner@fulbright.com, mmetteauer@fulbright.com, aotrademark@fulbright.com, khaskins@fulbright.com, trademarks@mmm.com |
| Signature | /Michael S. Metteauer/ |
| Date | 10/29/2008 |
| Attachments | Stipulation of Facts and Consent to Judgment.pdf (8 pages)(284993 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Registration No.: 3,087,494

Mark: 3N

3M COMPANY,

Petitioner,

v.

NATIONAL NOTIFICATION
NETWORK, LLC,

Registrant.

§
§
§
§
§
§
§
§
§

Cancellation No. 92047977

STIPULATION OF FACTS AND CONSENT TO JUDGMENT

Pursuant to the parties' settlement agreement, Petitioner and Registrant stipulate to the facts set forth in Section I below, and based thereon consent to entry of judgment as set forth in Section II below.

I. Stipulation of Facts

Pursuant to TBMP § 605.03(a), the parties stipulate to the following facts:

1. Petitioner 3M Company ("3M" or "Petitioner") is a Delaware corporation having its principal place of business at 3M Center, 2501 Hudson Road, St. Paul, Minnesota 55144.

2. Registrant National Notification Network, LLC ("3N" or "Registrant") is a California limited liability company having a principal place of business at 505 North Brand Blvd., Suite 700, Glendale, California 91203. Registrant has now been merged into 3N Global, Inc., a Delaware corporation having the same address.

3. 3M owns the mark and trade name 3M ("the 3M Mark"). 3M commenced use of the 3M Mark, in commerce which may lawfully be regulated by Congress, at least as early as 1906. Since that time, 3M has continuously used the 3M Mark in commerce.

4. 3M is one of the world's most diversified companies. Over the years, 3M has expanded its use of the 3M Mark and presently offers more than 50,000 products and services in a wide variety of fields under the 3M Mark.

5. 3M is well known as a global company, and 3M promotes the global nature of its business. 3M's products and services are sold throughout the world. The home page of 3M's website (www.3M.com) prominently displays the name "3M Worldwide."

6. Over the years, 3M has used a number of variations of the 3M Mark, such as MMM, THREE M, and 3-M.

7. Over the years, 3M has presented the 3M Mark (and related marks) in a number of different fonts and designs. 3M's current logo design, adopted in 1978, consists of "3M" in red block Helvetica letters. This logo is used in connection with almost every one of 3M's products and services and is displayed prominently on 3M's web site, www.3M.com.

8. Over the years, 3M has operated through a large number of different entities utilizing the 3M Mark, such as 3M Global Trading, Inc., 3M Export Sales, 3M Automotive Industry Center, 3M Health Care, 3M Medical Products Group, 3M Document Systems, 3M Marine Trades Project, 3M Sound Products, 3M Life Sciences Sector, and 3M Meeting Management Institute.

9. 3M has used the 3M Mark in connection with its charitable underwriting activities across the country through its 3M Foundation and has used the 3M Mark in connection with the sponsorship of arts, education, healthcare and environmental activities and causes for decades.

10. For many years, 3M has used the 3M Mark in connection with a wide range of products and services used in emergency preparedness, response and recovery.

11. 3M's emergency-related products and services are marketed to national and local governments and agencies, private sector customers such as companies and building owners, and public and private educational institutions.

12. Through the 3M Building Safety Solutions Department, 3M offers a variety of products designed to enhance the safety and security of office buildings and other structures. These products include window film products, concrete protection products, fire protection products and corrosion protection products.

13. 3M has offered telecommunications solutions under the 3M Mark to industry and government for decades, and today offers comprehensive communications networking systems through the 3M Communications Markets Division. Information on 3M's telecommunications products may be found on its website at www.3mtelecommunications.com.

14. 3M enhances the safety and security of the employees of its customers in a number of different industries through its wired and wireless communications systems.

15. 3M has developed and marketed software for inputting, managing and tracking large amounts of information for use in a number of different applications.

16. 3M has developed an enormous amount of goodwill in its 3M Mark and has established an excellent business reputation. The 3M Mark is extremely well-known and respected by consumers. The 3M Mark represents products indicative of 3M's commitment to providing high-quality, innovative products and services to consumers.

17. The 3M Mark is inherently distinctive and serves to identify and indicate the source of 3M's products and services to the consuming public.

18. As a result of 3M's long use and promotion of the 3M Mark, the 3M Mark has become distinctive to designate 3M, to distinguish 3M and its products and services from those of other businesses, and to distinguish the source or origin of 3M's products and services. As a result of these efforts by 3M, the consuming public widely recognizes and associates the 3M Mark with 3M and its diverse offering of products and services.

19. The 3M Mark is famous and highly distinctive.

20. As a result of 3M's long use and promotion of the 3M Mark, 3M has acquired valuable common law rights in the 3M Mark.

21. In accordance with federal law, 3M has registered the 3M Mark on the Principal Register of the United States Patent and Trademark Office. 3M now owns over 240 U.S. registrations for the 3M Mark for numerous products and services. 3M's registrations for the 3M Mark include the following registrations:

| REG. NO. | MARK | FIRST USE (date or range of dates) | GOODS |
|-----------|------|---------------------------------------|--|
| 3,398,329 | 3M | 1960 | Numerous medical and health related products in International Classes 9 and 10. |
| 1,550,833 | 3M | 12/31/1958 | Connectors for electrical and communications wires for use in the telephone industry. |
| 1,419,185 | 3M | 09/17/1975 | Flexible endothermic mat for wrapping electrical systems, pipes and structural steel for protection from exposure to fire. |

| | | | |
|-----------|----|------------|--|
| 1,272,530 | 3M | 05/18/1982 | Entrance and distribution terminals, connectors, mounting plates and protective covers for communications wires to provide a network for telecommunications within a building. |
|-----------|----|------------|--|

All of these registrations are valid and subsisting, and the last three are incontestable pursuant to 15 U.S.C. § 1065.

22. 3N offers products and services used in connection with emergency preparedness, response and recovery. For example, 3N offers mass notification systems enabling customers to immediately communicate with employees or other individuals over a variety of communication devices, *e.g.*, telephones, pagers, fax machines, email, PDAs, etc. These products and services are used in connection with emergency response plans, as well as in other contexts.

23. 3N offers its products and services under the mark 3N (and other marks that include 3N, such as 3N INSTACOM and 3N GLOBAL, hereinafter the “3N Marks”). 3N typically presents the mark 3N in red block letters, or in white block letters on a red background.

24. 3N markets its products and services to national and local governments and agencies, schools, and private companies. 3N markets these products and services under the 3N Marks throughout the United States.

25. 3N operates a website at www.3nonline.com, where it prominently displays the mark 3N and promotes its products and services.

26. 3N uses the 3N Marks in commerce.

27. 3N began using the 3N Marks long after 3M registered the 3M Mark and long after the 3M Mark became famous.

28. 3N is not affiliated with or sponsored by 3M in any way.

29. The 3N Marks so resemble the 3M Mark as to be likely, when used on or in connection with 3N's services, to cause confusion, and to cause dilution of the 3M Mark.

30. Nothing in this Confession of Judgment shall constitute or be construed as an admission that 3N adopted or used the 3N Marks to intentionally cause confusion or dilution with the 3M Mark.

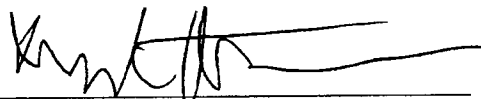
II. Consent to Judgment

Pursuant to TBMP §§ 604 and 605.03(a), the parties consent to entry of judgment against Registrant, sustaining the cancellation and cancelling the registration. The parties request that the Board enter judgment accordingly.

Respectfully submitted,



Steven M. Weinberg
COWAN, DEBAETS, ABRAHAM &
SHEPPARD, LLP
30765 Pacific Coast Highway, Ste. 411
Malibu, CA 90265
(310) 457-6100
(310) 457-9555 (FAX)



Michael S. Metteauer
Chet F. Garner
FULBRIGHT & JAWORSKI, L.L.P.
600 Congress Ave., Suite 2400
Austin, Texas 78701
(512) 474-5201
(512) 536-4598 (FAX)

ATTORNEYS FOR REGISTRANT

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

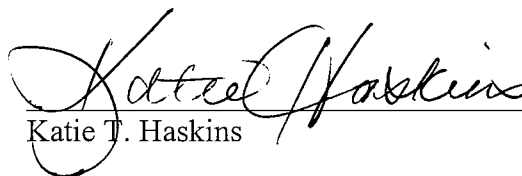
I hereby certify that a true and correct copy of the foregoing **Stipulation of Facts and Consent to Judgment** has been served via First Class Mail and Electronic Mail on counsel for Applicant at the address below, on this 29th day of October, 2008:

Steven M. Weinberg
Cowan, DeBaets, Abrahams & Sheppard LLP
30765 Pacific Coast Hwy, Suite 411
Malibu, CA 90265

smweinberg@cdas.com

Dated: October 29, 2008

By:


Katie T. Haskins